

BANKRUPTCY ^{UP}DATE

January 22, 2010

If someone else would like to receive these ^{UP}dates, please send an e-mail to mary_frederickson@sdb.uscourts.gov.

Curt R. Ewinger

Curt R. Ewinger, a long-time member of the bankruptcy bar, passed away on January 20, 2010, at the age of 57. A memorial service will be held at 5:30 p.m. on Tuesday, January 26, at the Aberdeen Community Theatre located at 417 South Main Street in Aberdeen. Chambers and the Clerk's office extend their condolences to Curt's family, friends, co-workers, and associates.

Obtaining a Default Judgment in an Adversary

Pursuant to Fed.R.Bankr.P. 7055, Fed.R.Civ.P. 55, and Interim Bankr. D.S.D. R. 7055-1, after the entry of a Clerk's Entry of Default in an adversary proceeding, plaintiff or plaintiff's attorney must do the following to obtain a default judgment without the necessity of a hearing:

- Prepare and file an application for a default judgment;
- Prepare and attach to the application a supporting affidavit of default, which verifies that:
 - (1) More than 30 days have elapsed since a Summons was issued;

- (2) Defendant was timely served with the Summons and the Complaint;
 - (3) Defendant has not answered or otherwise appeared in the adversary;
 - (4) Defendant is not a minor;
 - (5) Defendant is not an incompetent person; and
 - (6) Defendant is not an active duty servicemember.
- Serve the application and the supporting affidavit on the defaulting defendant and the defaulting defendant's attorney, if known, and prepare and file a Certificate of Service.
 - Prepare and e-mail a proposed Order Directing Entry of Default Judgment (see [Appendix 7B](#) of our interim local bankruptcy rules) and a proposed Default Judgment ([Appendix 7C](#)) to proposed_orders@sdb.uscourts.gov.

Link

You may either click on the link provided below or copy and paste it into your browser.

Previous ^{UP}dates

<http://www.sdb.uscourts.gov/BankruptcyUpdates.htm>

As always, should you have questions regarding this ^{UP}date or anything else concerning your dealings with the Court or the Clerk's office, please let us know.